

CORRES. CONTROL
INCOMING LTR NO.

00246 RF03

DUE DATE
ACTION
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 2003 MAR 10 P 2:5
 CORRESPONDENCE
 CONTROL
 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

 REGION 8
 999 18TH STREET - SUITE 300
 DENVER, CO 80202-2466
 Phone 800-227-8917
<http://www.epa.gov/region08>

Ref:8EPR-F

 John Kersten, Manager
 Department of Energy
 Golden Field Office
 1617 Cole Boulevard
 Golden, Colorado 80401-3393

MAR - 6 2003

 Subject: Status of the National Wind Technology Center with respect to the National
 Priorities List

Dear Mr. Kersten:

As you are aware, our office has been working with your staff to determine whether the property known as the National Wind Technology Center (NWTC), including 25 acres transferred from Rocky Flats to NWTC pursuant to the 2002 National Defense Authorization Act, was contaminated as a result of operations or accidental releases from the neighboring Rocky Flats former nuclear weapons facility. Your staff provided us with documentation that made a strong case for concluding that NWTC had never been affected by releases from the weapons facility. On January 30, 2003, I and two of my colleagues collected additional samples at NWTC including the 25 acres referenced above. The results of that sampling effort showed that plutonium concentrations in the soil are statistically indistinguishable from that seen anywhere along the Front Range.

After reviewing these latest results, I requested a legal opinion as to whether NWTC should be included on the National Priority List. That opinion is attached, and the conclusion is that EPA does not consider NWTC to be part of the Rocky Flats NPL site (note: the attached memorandum refers to NWTS, it was meant to reference NWTC). Please call me at (303) 312-6293, if you have any questions.

Regards,

 Timothy R. Rehder
 Rocky Flats Team Leader

 cc: Rick DiSalvo (RFFO), Steve Gunderson (CDPHE)
 David Abelson (RFCLOG), Ken Korkia (RFCAB)
 Dave Shelton (Kaiser Hill)

 COR CONTROL X
 ADMN RECORD
 PATS/130

 Reviewed for Addressee
 Corres. Control RFP

 3/10/03
 Date By

Ref. Ltr. #

DOE ORDER #

5400-1



ADMIN RECORD

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SW-A-004773



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Ref: 8ENF-L

March 5, 2003

MEMORANDUM

SUBJECT: Status of National Wind Technology Site

FROM: Lorraine Ross, Senior Enforcement Attorney
Legal Enforcement Program

A handwritten signature in black ink, appearing to read "LRR", is written over the name "Lorraine Ross".

TO: Tim Rehder, Team Leader
Rocky Flats Team

A question has arisen regarding the status of the National Wind Technology Site ("NWTS") in conjunction with the Rocky Flats NPL site. Certain aspects of EPA's policy regarding the listing of Federal facilities on the NPL are contained in an EPA guidance, entitled "Transmittal of the Revised Model Comfort Letter Clarifying NPL Listing, Uncontaminated Parcel Determinations, and CERCLA Liability Involving Transfers of Federally Owned Property". This guidance is available on the internet at <http://www.epa.gov/swerfrr/documents/comfortr.htm>.

The policy that is pertinent to the NWTS question is found in the section of the Model Comfort Letter entitled "National Priorities List". This section reads:

The purpose of the NPL is to identify releases of hazardous substances or pollutants and contaminants that are priorities for further evaluation. Hence, the NPL is a list of releases. When a site is added to the NPL, through a federal rulemaking process, it is necessary to define the release (or releases) encompassed within the listing. While sites, including Federal facilities, have sometimes been described in the rulemaking process with reference to a geographic area (e.g., Hanscom Air Force Base), sometimes referred to as "fenceline to fenceline", it is only the areas of contamination that are part of the NPL site. The boundaries of the installation are not necessarily the "boundaries" of the NPL site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to or from which contamination from that area has come to be located.



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As the transmittal memo states "property that has not been contaminated (i.e., no releases), unlike property where a response has been completed, can be characterized as never having been part of the NPL site." EPA's view of NPL site boundaries is further explained in the federal register notices that add sites to the NPL. (See, e.g. 67 fed reg 65315 (October 24, 2002) "[a] site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.... The boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.)

Recent testing has confirmed that the NWTs is not contaminated. Therefore, at this time, EPA does not consider the NWTs to be part of the Rocky Flats NPL site.